

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR08-308

WALKER H. HAGAR, III

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered October 22, 2008

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. CR99-11-B; CR99-157]

HONORABLE STEPHEN TABOR,
JUDGE

REVERSED AND DISMISSED

JOHN MAUZY PITTMAN, Chief Judge

Appellant pleaded guilty in August 1999 to multiple offenses committed between July 1998 and January 1999. He was fined \$500, and imposition of sentence to imprisonment was suspended for a period of sixty months. In December 2002, the circuit court revoked appellant's suspension and sentenced him to two years' imprisonment to be followed by suspended imposition of sentence of eight years' duration. In October 2007, the State filed a petition to revoke the 2002 suspended imposition. After a hearing, the trial court found that appellant had violated the conditions of his suspension and sentenced him to forty-five months' imprisonment. On appeal, appellant argues that the trial court lacked jurisdiction to modify his sentence in 2002 and, therefore, to subsequently revoke the illegal 2002 suspension. The State concedes error. We agree.

A sentence must be in accord with statutes in effect on the date of the crime. *Gates v. State*, 353 Ark. 333, 107 S.W.3d 868 (2003). Prior to the enactment of Act 1569 of 1999, a circuit court lacked jurisdiction to modify a sentence that had been put into execution. The Act became effective on April 15, 1999, and does not retroactively apply to crimes committed before that date. Ordering that appellant's 2002 sentence to imprisonment upon revocation be followed by an additional period of suspended imposition of sentence constituted a modification of his original 1999 sentence. See *Gavin v. State*, 354 Ark. 425, 125 S.W.3d 189 (2003); *Gates v. State*, *supra*. However, because appellant's crimes were all committed before April 15, 1999, and because the levy of a fine constitutes a sentence placed into execution, the trial court lacked jurisdiction in 2002 to modify the 1999 sentence. See *Thronebury v. State*, 85 Ark. App. 352, 154 S.W.3d 272 (2004).

Reversed and dismissed.

BAKER and HUNT, JJ., agree.